

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Foothill-De Anza Community Colleges Foundation (the “Foundation”) is a tax-exempt public benefit corporation, established to raise and invest funds to support Foothill and De Anza colleges, which are part of the Foothill-De Anza Community College District. Respondent is headquartered in Los Altos Hills.

In 1999, during the second semi-annual campaign reporting period July 1, 1999 through December 31, 1999, Respondent made a \$150,000 contribution to support Measure E, a bond measure placed on the November 1999 Santa Clara County ballot by the Foothill-De Anza Community College District, and thereby qualified as a “major donor committee” under the Political Reform Act (the “Act”).<sup>1</sup> As such, Respondent was required to comply with specified campaign reporting provisions of the Act.

As a major donor committee, Respondent was required by the Act to file late contribution reports disclosing its late contributions within 24 hours of making them, and a semi-annual campaign statement, commonly known as a “major donor statement,” disclosing its contributions during the reporting period January 1, 1999 through December 31, 1999.

In this case, Respondent made a late contribution prior to the November 2, 1999 election, which it failed to disclose in a properly filed late contribution report, thereby committing a violation of the Act. Additionally, Respondent failed to file a semi-annual campaign statement disclosing the campaign activity of Respondent during the reporting period January 1, 1999 through December 31, 1999, in further violation of the Act.

For the purposes of this stipulation, Respondent’s violations of the Act are stated as follows:

- COUNT 1:** Respondent Foothill-De Anza Community Colleges Foundation failed to disclose a \$150,000 late contribution to Citizens for Foothill-De Anza, a committee to support Measure E, in a properly filed late contribution report, by the October 22, 1999 due date, in violation of section 84203, subdivision (a).
- COUNT 2:** Respondent Foothill-De Anza Community Colleges Foundation failed to file a semi-annual campaign statement, by January 31, 2000, for the reporting period January 1, 1999 through December 31, 1999, in violation of section 84200, subdivision (b).

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor” committee.

Section 82015 defines the term “contribution” as a “payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.” Section 82044 includes loans within the definition of “payment.”

Under section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is received before an election, but after the closing date of the last pre-election campaign statement. Under section 84200.8, subdivision (b), for an election not held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

Section 84200, subdivision (b) requires a major donor committee to file a semi-annual campaign statement for any reporting period in which the committee makes campaign contributions. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year. Pursuant to section 82046, subdivision (b), if a person has not previously filed a campaign statement for any calendar year in which it is required to file a statement, the reporting period covered begins on January 1 of that year.

Section 84215, subdivision (d) requires a major donor committee supporting local measures to be voted upon in any number of jurisdictions within a single county to file the committee’s campaign statements with the clerk of the county.

## **SUMMARY OF THE FACTS**

Respondent is a tax-exempt public benefit corporation under section 501, subdivision (c)(3) of the Internal Revenue Code, established “to raise and invest funds to support the educational excellence of the Foothill and De Anza colleges,” which are part of the Foothill-De Anza Community College District (the “District”). Respondent is headquartered in Los Altos

Hills.

The District placed a \$248 million bond measure, Measure E, on the November 2, 1999 Santa Clara County ballot to help raise funds to pay for infrastructure repair, renovation, and rehabilitation of the Foothill and De Anza colleges. Measure E was approved by voters in the District's service area by a 72% margin.

In 1999, during the second semi-annual campaign reporting period of July 1, 1999 through December 31, 1999, Respondent made a \$150,000 contribution, in the form of a loan, to support Measure E, a bond measure placed on the November 1999 Santa Clara County ballot by the District, and thereby qualified as a "major donor committee."

#### COUNT 1

##### **Failure to File Late Contribution Report**

As a major donor committee, Respondent had a duty to file late contribution reports disclosing, within 24 hours, any late contributions that it made. The late contribution reporting period for the November 2, 1999 election was the last sixteen days before the election: October 17, 1999 through November 1, 1999.

On October 21, 1999, Respondent made a \$150,000 late contribution, in the form of a loan, to Citizens for Foothill-De Anza, a committee to support Measure E. As the contribution was made during the late contribution reporting period prior to the November 2, 1999 election, Respondent was required to disclose the contribution in a late contribution report filed by October 22, 1999. Respondent failed to do so.

By failing to file a late contribution report disclosing, within 24 hours, the late contribution, as set forth above, Respondent committed a violation of section 84203, subdivision (a).

#### COUNT 2

##### **Failure to File a Semi-Annual Campaign Statement**

As a major donor committee, Respondent had a duty to file a semi-annual campaign statement disclosing the contributions that it made during the reporting period January 1, 1999 through December 31, 1999. The filing deadline for a semi-annual campaign statement for the reporting period ending December 31, 1999 was January 31, 2000.

Respondent failed to file a semi-annual campaign statement by January 31, 2000.

By failing to file a semi-annual campaign statement by January 31, 2000, as set forth above, Respondent committed a violation of section 84200, subdivision (b).

In conjunction with reaching this settlement, Respondent filed the delinquent campaign statement on or about January 31, 2005.

#### **CONCLUSION**

This matter consists of two counts, which carry a maximum possible administrative penalty of Four Thousand Dollars (\$4,000).

Regarding Count 1, this is a very serious violation, as it involved a very large contribution that was not disclosed during the late contribution reporting period. As such, imposition of the maximum administrative penalty of \$2,000 is appropriate.

Regarding Count 2, the typical stipulated administrative penalty for the non-filing of a semi-annual campaign statement has historically ranged from \$1,000 to \$1,500 per statement. As the violation appears to be aggravated, due to Respondent's failure to disclose any of its contribution activity until reaching this settlement, imposition of the maximum administrative penalty of \$2,000 is appropriate.

The facts of this case therefore justify imposition of the agreed upon penalty of Four Thousand Dollars (\$4,000).